

Attachment D

New Facilities Provisions

Update of changes recommended at the August 25, 2003 Negotiation Session. These have not been reviewed by the Agency.

New Definition

(m) "future additions" means any facilities authorized or constructed pursuant to section 2.3 (b) of this agreement.

Revised Definition

(nn) "Transmission System" means the Agency's water production, storage, treatment and transmission facilities, including but not limited to the Santa Rosa, Petaluma, Sonoma and Forestville Aqueducts, the Russian River-Cotati Intertie, emergency wells, the Warm Springs Hydroelectric Project, future water production, storage, treatment and transmission facilities to be constructed pursuant to section 2.2, any future additions constructed pursuant to section 2.3(b), and the Potter Valley Project, if acquired by the Agency pursuant to section 2.4. ~~recycled water and local supply projects constructed pursuant to section 2.6(a), and recycled water projects constructed or acquired pursuant to section 2.6(b).~~

Revision to Last Sentence of Section 1.6

Any annual delivery limit contained in section 3.1 may be modified by written agreement between the Agency and the water contractor to which such annual delivery limit applies without the consent of the other parties to this agreement for the purpose of conforming such annual delivery limits to a general plan which is applicable to the service area of such water contractor. ~~Any average daily or annual delivery limit contained in section 3.1 may be modified by written agreement between the Agency and the water contractor to which such limits apply without the consent of the other parties to this agreement to account for the additional supplies made available by the construction of future additions pursuant to section 2.3(b).~~ Copies of any such written agreements shall be provided to all the parties to this agreement.

New Section 2.3(b) - Future Additions to Transmission System

(b) The Agency may construct future additions to the Transmission System in addition to those authorized to be constructed by section 2.2 of this agreement pursuant to separate agreement(s) between the Agency and any one or more water contractors, provided (1) the future additions do not interfere with

delivery to any water contractor of the quantity of water that would be delivered by the Agency pursuant to Section 3.1 of this agreement in the absence of the future additions, (2) all capital costs of any such future additions (including, but not limited to, the cost of studies, technical reports, financial plans, environmental studies and documentation, and design costs) are paid entirely by the water contractor(s) that are parties to such separate agreement(s), and (3) construction of the future additions is approved by the Agency and the Water Advisory Committee. The Agency may finance and construct such future additions with cash available pursuant to such separate agreement(s) or proceeds from the sale of Revenue Bonds or other financing; provided, however, that the water contractors executing such separate agreement(s) shall be solely responsible for any additional Revenue Bond or other debt service obligations that arise from the construction of the future addition(s). The separate agreement(s) shall specify the additional daily average per month deliveries and additional annual deliveries available to each water contractor as a result of the construction of the additional facilities. Following construction of the additional facilities, the separate agreement(s) may be amended to add one or more additional water contractors as parties and to allocate a portion of the additional daily average and annual deliveries to such water contractors, upon such terms as the original parties to the separate agreement(s) may agree.

New Section 3.41 Supplemental Water

Supplemental water is water that is delivered by the Agency pursuant to facilities constructed pursuant to Section 2.3 (b) that is in excess of the amounts of water delivered pursuant to Sections 3.1, 3.2 and 3.3 of this agreement. In applying the provisions of Section 3.5, delivery of supplemental water shall have priority over deliveries of water to Marin Municipal Water District and deliveries of surplus water. Charges for delivery of supplemental water shall be calculated by the Agency in the same manner as charges for water delivered pursuant to Section 3.1 and 3.2. Limitations set forth in Sections 3.1 and 3.2 may be increased by supplement water capacity made available by facilities constructed pursuant to Section 2.3 (b) by amendment of this agreement.